

SENATE BILL 1044

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 21; Title 16, Chapter 10; Title 29, Chapter 8 and Title 68, Chapter 3, relative to name changes on certain government records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 8, is amended by deleting the chapter in its entirety and substituting instead the following:

29-8-101.

(a) Any court having probate jurisdiction has jurisdiction to change names and to correct errors in birth certificates upon petition of a resident of the county in which the petition is made.

(b) Any person or any legal guardian of a minor may petition a court to change the person's or minor's name or correct errors in the person's or minor's birth certificate. The petition must be in writing, signed by the petitioner or the legal guardian of the minor, and accompanied by an affidavit that, to the satisfaction of the court, shows reasonable proof that the requirements of this chapter have been satisfied.

(c) The petition to change a person's name must contain the following:

(1) Whether the person has been the subject of a felony conviction;

(2) Whether the person is subject to the registration requirements of the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2; and

(3) The name of the petitioner at the time the petition is filed, date of birth, and address of the person.

(d) The clerk's fee for services in proceedings under this chapter shall be assessed pursuant to title 8, chapter 21, part 4 and paid by the petitioner.

29-8-102.

(a) Except as otherwise provided in subsection (b) and § 29-8-103, a court shall grant a petition to change a person's name or correct errors in a person's birth certificate if:

- (1) The person is a resident of the county in which the court resides;
- (2) The person has resided in this state for six (6) months or more; and
- (3) The person, or in the case of a minor, the minor's guardian, provides to the court reasons satisfactory to the court for the change or correction.

(b)

(1) A court shall not grant a petition to change a person's name in the person's birth certificate if:

(A) The person has been convicted of any of the following offenses:

(i) First or second degree murder; or

(ii) Any offense, the commission of which requires a sexual offender to register pursuant to the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004, compiled in title 40, chapter 39, part 2; or

(B) The court has reason to believe that the petition is being made to defraud or mislead, is not being made in good faith, will cause injury to an individual, or compromise public safety.

(2)

(A) If the petitioner has a felony conviction, other than for those offenses enumerated in subdivision (b)(1), then the petition is presumed

to be made in bad faith, to defraud or mislead, to cause injury to an individual, or to compromise public safety unless the name change is the result of a lawful marriage, marital dissolution, or adoption.

(B) The court shall not grant the petition to change the person's name if the person has a felony conviction as described in this subdivision (b)(2) unless the petitioner proves by clear and convincing evidence that the petition is not based upon an intent to defraud or mislead, is made in good faith, will not cause injury to an individual, and will not compromise public safety.

29-8-103.

(a) Except as otherwise provided in subsection (b), if the name to be changed is the name of a minor, then notice of the petition must be served by the petitioner on any legal guardian of the minor not bringing the petition no later than ninety (90) days prior to a hearing on the petition.

(b) Service required by subsection (a) shall not be required if the legal guardian to be served:

(1) Has engaged in parental misconduct, such as failing to pay support or failing to maintain contact with the minor; or

(2) Has waived service.

(c) Prior to ordering a name change of a minor, the court must determine that the name change is in the best interest of the minor.

(1) When determining whether changing a minor's surname is in the best interest of the minor, the court may consider:

(A) Whether it would be more convenient for the minor to have the same surname as or a different surname from the custodial parent;

(B) Whether a surname would help identify the minor as part of a family unit;

(C) Whether there has been parental misconduct, such as failing to pay support or failing to maintain contact with the minor; and

(D) Whether a change in the minor's surname will positively or adversely affect the bond between the child and either parent.

(2) When determining whether changing any portion of a minor's name, including the minor's surname, the court may consider:

(A) The length of time the name has been used;

(B) Whether the parent seeking the change is motivated by an attempt to alienate the child from the other parent or other caregivers;

(C) The reasonable preference of the child, if the court deems the child to be of reasonable intelligence, understanding, age, and experience to express such a preference;

(D) Any testimony offered by medical professionals who have treated the minor; and

(E) Such other factors as the court deems necessary and proper to make the determination.

29-8-104.

(a) The court may order the name to be changed or the birth certificate to be corrected by entry of record reciting the petition and the reasons for the name change.

(b) Any person whose name is changed may be known and designated, sue and be sued, by the person's changed name.

(c) No public funds shall be expended to change the name of any person who is an inmate in the custody of the department of correction.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it, and shall apply to petitions to change a name or correct an error in a birth certificate that are filed on or after July 1, 2017.